

Bank is encouraged to make a reasonable effort to provide the information for items 4 through 15 on the CTR. Such efforts could include a search of the institution's records or a phone call to the department store to identify the persons that conducted the transactions. If all of the information is not contained in the institution's records or otherwise obtained, item 3d must be checked. The number of transactions reported in item 48a must be 5 and the number of branches reported in 48b would be 3. The zip codes for the three locations where the transactions occurred must be entered in item 48c.

Example No. 4

Mrs. Saunders makes a cash withdrawal, for \$4,000, from a joint savings account she owns with her husband. That day her husband, Mr. Saunders, withdraws \$7,000 cash using the same teller. Realizing that the withdrawals exceed \$10,000, the teller obtains identifying information on Mr. Saunders required to complete a CTR.

Application of Law to Example No. 4

In this case, item 2 on the CTR must be checked because the teller knows that more than one person conducted the transactions. Information on Mr. Saunders would appear in Part I and the bank is encouraged to ask him for, or to check its records for the required identifying information on Mrs. Saunders. If after taking reasonable efforts to locate the desired information, all of the required information is not found on file in the institution's records or is not otherwise obtained, box 3d must be checked to indicate that all information is not being provided because multiple transactions are being reported. Whatever information on Mrs. Saunders is contained in the records of the institution must be reported in the continuation of Part I on the back of Form 4789. The number of transactions reported in item 48a must be 2 and the number of branches reported in item 48b would be 1. The zip code for the branch where the transactions took place would be entered in item 48c.

Example No. 5

On another day, Mrs. Saunders makes a deposit of \$3,000 cash and no information required for Part I of the CTR is requested of her. She is followed later the same day by her husband, Mr. Saunders, who deposits \$12,000 in currency and who provides all data required to complete Part I for himself.

Application of Law to Example No. 5

Item 2 on the CTR must be checked because the teller knows that more than one person conducted the transactions. Information on Mr. Saunders would appear in Part I and the bank is encouraged to ask him for, or to check its records for the required identifying

information on Mrs. Saunders. If after taking reasonable efforts to locate the desired information, all of the required information is not found on file in the institution's records or is not otherwise obtained, box 3d must be checked to indicate that all information is not being provided because multiple transactions are being reported. Whatever information on Mrs. Saunders is contained in the records of the institution must be reported in the continuation of Part I on the back of Form 4789. The number of transactions reported in item 48a must be 2 and the number of branches reported in item 48b would be 1. The zip code for the branch where the transactions took place would be entered in item 48c.

Example No. 6

A review of First Federal Bank's daily cash transactions report for a given day indicates several cash deposits to a single account totaling more than \$10,000. Two separate deposits were made in the night depository at the institution's main office, and two deposits were conducted at the teller windows of two other branch locations. Each deposit was under \$10,000.

Application of Law to Example No. 6

Item 3c should be checked to indicate that identifying information is not provided because transactions were received through the night deposit box. If the tellers involved with the two face to face deposits remember who conducted the transactions, institution records can be checked for identifying information. If the records contain some of the information required by items 4 through 15, that information must be provided, and item 3d must be checked to indicate that some information is missing because multiple transactions are being reported and the information was not obtained at the time the transactions were conducted. Item 48a must indicate 4 transactions and item 48b must indicate 3 locations. The zip code of those locations would be provided in item 48c.

[53 FR 40064, Oct. 13, 1988, as amended at 54 FR 21214, May 17, 1989; 54 FR 30543, July 21, 1989; 55 FR 1022, Jan. 11, 1990; 58 FR 7048, Feb. 4, 1993]

**PART 123 [RESERVED]**

**PART 128—REPORTING OF INTERNATIONAL CAPITAL AND FOREIGN-CURRENCY TRANSACTIONS AND POSITIONS**

**Subpart A—General Information**

Sec.

128.1 General reporting requirements.

## § 128.1

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- 128.2 Manner of reporting.
- 128.3 Use of information reported.
- 128.4 Penalties.
- 128.5 Recordkeeping requirements.

### Subpart B—Reports on International Capital Transactions and Positions

- 128.11 Purpose of reports.
- 128.12 Periodic reports.
- 128.13 Special survey reports.

### Subpart C—Reports on Foreign Currency Positions

- 128.21 Purpose of reports.
- 128.22 Periodic reports.
- 128.23 Special survey reports.

APPENDIX A TO PART 128—DETERMINATION  
MADE BY NATIONAL ADVISORY COUNCIL  
PURSUANT TO SECTION 2 (A) AND (B) OF  
E.O. 10033

AUTHORITY: 22 U.S.C. 286f and 3101 *et seq.*; 31  
U.S.C. 5315 and 5321.

SOURCE: 58 FR 58495, Nov. 2, 1993, unless  
otherwise noted.

### Subpart A—General Information

#### § 128.1 General reporting requirements.

(a) *International capital transactions and positions.* (1) In order to implement the International Investment and Trade in Services Survey Act, as amended (22 U.S.C. 3101 *et seq.*); and E.O. 11961, and to obtain information requested by the International Monetary Fund under the articles of agreement of the Fund pursuant to section 8(a) of the Bretton Woods Agreements Act (22 U.S.C. 286f) and E.O. 10033, persons subject to the jurisdiction of the United States are required to report information pertaining to—

(i) United States claims on, and liabilities to, foreigners;

(ii) Transactions in securities and other financial assets with foreigners; and

(iii) The monetary reserves of the United States.

(2) Data pertaining to direct investment transactions are not required to be reported under this Part.

(3) Reports shall be made in such manner and at such intervals as specified by the Secretary of the Treasury. See subpart B of this part for additional requirements concerning these reports.

(b) *Foreign currency positions.* (1) In order to provide data on the nature and source of flows of mobile capital, including transactions by large United States business enterprises (as determined by the Secretary) and their foreign affiliates as required by 31 U.S.C. 5315, persons subject to the jurisdiction of the United States are required to report information pertaining to—

(i) Transactions in foreign exchange;

(ii) Transfers of credit that are, in whole or part, denominated in a foreign currency; and

(iii) The creation or acquisition of claims that reference transactions, holdings, or evaluations of foreign exchange.

(2) Reports shall be made in such manner and at such intervals as specified by the Secretary. See subpart C of this part for additional requirements concerning these reports.

(c) *Notice of reports.* Notice of reports required by this part, specification of persons required to file report, and forms to be used to file reports will be published in the FEDERAL REGISTER. Persons currently required to file reports shall continue to file such reports using existing Treasury International Capital Forms BL-1/BL-1(SA), BL-2/BL-2(SA), BL-3, BC/BC(SA), BQ-1, BQ-2, CM, CQ-1, CQ-2, S, and existing Treasury Foreign Currency Forms FC-1, FC-2, FC-3, and FC-4 until further notice is published in the FEDERAL REGISTER.

#### § 128.2 Manner of reporting.

(a) *Methods of reporting—(1) Prescribed forms.* (i) Except as provided in § 128.2(a)(2), reports required by this part shall be made on forms prescribed by the Secretary. The forms and accompanying instructions will be published in accordance with § 128.1(c).

(ii) Copies of forms and instructions prescribed by the Secretary for reporting under this Part may be obtained from any Federal Reserve Bank, or from the Office of the Assistant Secretary (Economic Policy), Department of the Treasury, Washington, DC 20220.

(2) *Alternative methods of reporting.* In lieu of reporting on forms prescribed by the Secretary pursuant to this part, reports may be filed on magnetic tape or

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other media acceptable to, and approved in writing by, the Federal Reserve district bank with which the report is filed, or by the Assistant Secretary (Economic Policy) in the case of a special exception filing pursuant to § 128.2(b)(3). The Secretary may require that magnetic tape or other machine-readable media, or other rapid means of communication be used for filing special survey reports under subpart B or C of this part.

(b) *Filing of periodic reports*—(1) *Banks and other depository institutions, International Banking Facilities, and bank holding companies.* Except as provided in § 128.2(b)(3), each bank, depository institution, International Banking Facility, and bank holding company in the United States required to file periodic reports under subpart B or C of this part shall file such reports with the Federal Reserve bank of the district in which such bank, depository institution, International Banking Facility or bank holding company has its principal place of business in the United States.

(2) *Nonbanking enterprises and other persons.* Except as provided in § 128.2(b)(3), nonbanking enterprises and other persons in the United States required to file periodic reports under subpart B or C of this part shall file such reports with the Federal Reserve Bank of New York.

(3) *Special exceptions.* If a respondent described in § 128.2(b)(1) or (2) is unable to file with a Federal Reserve district bank, such respondent shall file periodic reports with the Office of the Assistant Secretary (Economic Policy), Department of the Treasury, Washington, DC 20220, or as otherwise provided in the instructions to the periodic report forms.

(c) *Filing of special survey reports.* All respondents required to file special survey reports under subpart B or C of this part file such reports as provided in § 128.2(b) unless otherwise provided in the instructions to the special survey reports.

### § 128.3 Use of information reported.

(a) Except for use in violation and enforcement proceedings pursuant to the International Investment and Trade in Services Survey Act, 22 U.S.C. 3101 *et*

*seq.*, information submitted by any individual respondent on reports required under subpart B of this part may be used only for analytical and statistical purposes within the United States Government and will not be disclosed publicly by the Department of the Treasury, or by any other Federal agency or Federal Reserve district bank having access to the information as provided herein. Aggregate data derived from these forms may be published or otherwise publicly disclosed only in a manner which will not reveal the amounts reported by any individual respondent. The Department may furnish information from these forms to the Federal Reserve Board and to Federal agencies to the extent permitted by applicable law.

(b) The information submitted by any individual respondent on reports required under subpart C of this part will not be disclosed publicly. Aggregated data may be published or disclosed only in a manner which will not reveal the information reported by any individual respondent. The Department may furnish to Federal agencies, the Board of Governors of the Federal Reserve System, and to Federal Reserve district banks data reported pursuant to subpart C of this part to the extent permitted by applicable law.

### § 128.4 Penalties.

(a) Whoever fails to file a report required by subpart B of this part shall be subject to a civil penalty of not less than \$2,500 and not more than \$25,000.

(b) Whoever willfully fails to file a report required by subpart B of this part may be criminally prosecuted and upon conviction fined not more than \$10,000 and, if an individual (including any officer, director, employee, or agent of any corporation who knowingly participates in such violation), may be imprisoned for not more than one year, or both.

(c) Whoever fails to file a report required by subpart C of this part shall be subject to a civil penalty of not more than \$10,000.

### § 128.5 Recordkeeping requirements.

Banks, other depository institutions, International Banking Facilities, bank

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holding companies, brokers and dealers, and nonbanking enterprises subject to the jurisdiction of the United States shall maintain all information necessary to make a complete report pursuant to this Part for not less than three years from the date such report is required to be filed or was filed, whichever is later, or for such shorter period as may be specified in the instructions to the applicable report form.

(Approved by the Office of Management and Budget under control number 1505-0149)

### Subpart B—Reports on International Capital Transactions and Positions

#### § 128.11 Purpose of reports.

Reports on international capital transactions and positions provide timely and reliable information on international portfolio capital movements by U.S. persons. This information is needed for preparation of the capital accounts of the United States balance of payments and the international investment position of the United States.

#### § 128.12 Periodic reports.

(a) *International capital positions.* (1) Banks and other depository institutions, International Banking Facilities, bank holding companies, and brokers and dealers in the United States shall file monthly, quarterly and semi-annual reports with respect to specified claims and liabilities positions with foreigners held for their own account and for the accounts of their customers.

(2) Nonbanking enterprises in the United States not described in § 128.12(a)(1) shall file monthly and quarterly reports with respect to deposits and certificates of deposit with banks outside the United States and specified claims and liabilities positions with unaffiliated foreigners.

(b) *Transactions in certain domestic and foreign long-term securities.* Banks and nonbanking enterprises in the United States shall file monthly reports on their transactions in domestic and foreign long-term securities or

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other financial assets with foreign residents.

(c) *Notice of periodic reports.* Notice of periodic reports will be published in accordance with § 128.1(c).

#### § 128.13 Special survey reports.

The Secretary may prescribe special survey reports at such times as the Secretary determines there is a need for detailed information on the aggregate data derived from current periodic reports or to provide additional qualitative information with respect to such data. Notice of special survey reports will be published in accordance with § 128.1(c).

### Subpart C—Reports on Foreign Currency Positions

#### § 128.21 Purpose of reports.

Reports by respondents on foreign currency positions provide data on the nature and source of flows of mobile capital, including transactions by large United States business enterprises (as determined by the Secretary) and their foreign affiliates as required by 31 U.S.C. 5315.

#### § 128.22 Periodic reports.

Respondents shall file reports weekly, monthly and quarterly on the value of such items as outstanding foreign exchange contracts, dealing positions, derivative foreign currency instruments, and other assets and liabilities denominated in the currencies specified on the forms. Notice of periodic reports will be published in accordance with § 128.1(c).

#### § 128.23 Special survey reports.

The Secretary may prescribe special survey reports with respect to foreign exchange positions and related information at such times as the Secretary determines that there is a need for prompt or expanded information on current conditions in the foreign exchange markets. Notice of special survey reports will be published in accordance with § 128.1(c).

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## § 129.1

### APPENDIX A TO PART 128—DETERMINATION MADE BY NATIONAL ADVISORY COUNCIL PURSUANT TO SECTION 2 (A) AND (B) OF E.O. 10033

#### *I. Determination of the National Advisory Council pursuant to E.O. 10033*

In an action dated September 7, 1965, the National Advisory Council on International Monetary and Financial Problems made the following determination pursuant to section 2(a) of E.O. 10033 of February 8, 1949.

*Action 65 (E.O.)-49.* The National Advisory Council, having consulted with the Director of the Bureau of the Budget, determines the current information with respect to international capital movements, derived from data on U.S. liabilities to and claims on foreigners and transactions in securities with foreigners, and current information with respect to U.S. gold holdings, foreign-currency holdings, and dollar liabilities to foreigners, are essential in order that the United States may comply with official requests of the International Monetary Fund for information with respect to the U.S. balance of payments and monetary reserves.

Action No. 320, March 17, 1949 is superseded by this determination and is hereby revoked.

II. Designation of the Treasury Department by the Director of the Bureau of the Budget pursuant to section 2(b) of E.O. 10033.

On December 1, 1965, the Treasury Department was designated, pursuant to section 2(b) of E.O. 10033 of February 8, 1949, to collect information for the International Monetary Fund under the National Advisory Council determination of September 7, 1965. The letter containing the designation reads as follows:

December 1, 1965.

Hon. Henry H. Fowler,  
*Secretary of the Treasury, Washington, DC 20220.*

Dear Mr. Secretary: On September 7, 1965, the National Advisory Council after consultation with this Bureau in accordance with section 2(a) of Executive Order 10033, made the following determination (Action 65 (E.O.)-49:

"The National Advisory Council, having consulted with the Director of the Bureau of the Budget, determines that current information with respect to international capital movements, derived from data on U.S. liabilities to claims on foreigners and transactions in securities with foreigners, and current information with respect to U.S. gold holdings, foreign-currency holdings, and dollar liabilities to foreigners, are essential in order that the United States may comply with official requests of the International Monetary Fund for information with respect to the U.S. balance of payments and monetary reserves."

It is hereby determined pursuant to section 2(b) of Executive Order 10033, that the Treasury Department shall collect information pertaining to capital movements between the United States and foreign countries and pertaining to the monetary reserves of the United States, except information pertaining to direct-investment transactions, U.S. Government foreign lending operations, and claims and liabilities of U.S. Government agencies (other than public debt obligations), which is collected by the Department of Commerce.

This letter supersedes the earlier determination as to the responsibilities of the Treasury Department in this area, dated April 21, 1949, as amended May 4, 1950.

Sincerely yours,

Raymond T. Bowman,  
*Assistant Director for Statistical Standards.*

## PART 129—PORTFOLIO INVESTMENT SURVEY REPORTING

Sec.

- 129.1 Purpose.
- 129.2 Definitions.
- 129.3 Reporting requirements.
- 129.4 Recordkeeping requirements.
- 129.5 Confidentiality.
- 129.6 Penalties specified by law.

AUTHORITY: 22 U.S.C. 3101 et seq.; E.O. 11961, 42 FR 4321, 3 CFR, 1977 Comp., p. 86.

SOURCE: 58 FR 30707, May 27, 1993, unless otherwise noted.

### § 129.1 Purpose.

The purpose of this part is to provide general information on portfolio investment survey data collection programs and analyses under the International Investment and Trade in Services Survey Act ((formerly the International Investment Survey Act of 1976) (the "Act")). The purpose of the Act is to provide for the collection of comprehensive and reliable information concerning international investment, including portfolio investment. The Act specifies that regular data collection programs and surveys specified by the Act or deemed necessary by the Secretary of the Treasury shall be conducted to secure information on international capital flows and other information related to international portfolio investment, including information that may be necessary for computing and analyzing the United States balance of payments.